
OLR Bill Analysis

sSB 1062

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE SENTENCING OF A CHILD CONVICTED OF A FELONY OFFENSE.

SUMMARY:

This bill makes a number of changes related to sentencing offenders who were younger than age 18 at the time of committing their crimes, including:

1. retroactively eliminating life sentences for capital felony, murder with special circumstances, and arson murder for offenders who committed these crimes when they were younger than age 18;
2. requiring a criminal court to consider certain factors when sentencing someone who was charged with a felony committed when he or she was between ages 14 and 18;
3. requiring the Judicial Branch's Court Support Services Division to create reference materials on adolescent psychology and brain development to assist courts at sentencing; and
4. (a) requiring a presentence investigation or report for a child to consider the same sentencing factors, (b) prohibiting waiving such an investigation or report for a child convicted of a class A or B felony, and (c) requiring the court to approve a waiver of such an investigation or report for a child charged with any other felony.

EFFECTIVE DATE: October 1, 2013, and the provisions regarding capital felony, murder with special circumstances, and arson murder apply regardless of when an offender is convicted.

SENTENCES TO LIFE IMPRISONMENT

The bill prohibits sentencing someone for a capital felony if he or she was younger than age 18 when the crime was committed and overturns prior sentences of this type. By law, capital felony punishes crimes committed before April 25, 2012 with life imprisonment without possibility of release or death. Current law prohibits sentencing offenders who were younger than age 18 at the time of the crime to death.

The bill prohibits convicting someone of murder with special circumstances unless the offender was at least age 18 at the time of the offense. It overturns any prior convictions of this crime for these offenders. By law, this crime is punishable by life imprisonment without the possibility of release.

The bill lowers the penalty for arson murder when the offender is younger than age 18 from life imprisonment, statutorily defined as 60 years without parole, to 25 to 60 years without parole. It applies this change retroactively to decrease the prison sentence of any offender previously convicted of committing this crime when younger than age 18.

The bill makes conforming changes.

MITIGATING FACTORS AT SENTENCING

The bill requires a criminal court to consider mitigating factors when sentencing someone charged with, but not necessarily convicted of, a felony if he or she was between ages 14 and 18 when the crime was committed. These factors must include the child's:

1. age and maturity at the time of the offense;
2. history of trauma, abuse, neglect, mental illness, or substance abuse;
3. intellectual capacity and educational history;
4. family and community environment, including ability to extricate himself or herself from the environment;

5. level of participation in the offense;
6. subjection to peer or familial influence or pressure;
7. impetuosity;
8. ability to appreciate the risks and consequences of his or her conduct;
9. ability to navigate the criminal justice system and participate meaningfully in his or her defense; and
10. capacity for rehabilitation and opportunities for rehabilitation in the community and an adult prison environment.

Under the bill, mitigating factors also include scientific and psychological evidence showing the difference between a child's and adult's brain development.

BACKGROUND

Cases in Juvenile Court and Superior Court

By law, juvenile courts have jurisdiction to hear criminal cases of offenders who are younger than age 18. Depending on the circumstances, offenders alleged to have committed felonies when they were between ages 14 and 18 may have their cases transferred to the Superior Court criminal docket.

Capital Felony and Murder with Special Circumstances

A person commits a capital felony, before April 25, 2012, or murder with special circumstances, after that date, if he or she murders:

1. certain officers while performing their duties, such as a police officer, state marshal, special conservation officer, or Department of Correction employee;
2. for pay or hires someone to murder;
3. after a previous conviction for intentional murder or murder while a felony was committed;

4. while sentenced to life imprisonment;
5. someone that he or she kidnapped;
6. while committing 1st degree sexual assault;
7. two or more people at the same time or in the course of a single transaction; or
8. a person younger than age 16.

Presentence Investigation Report

The law requires a presentence investigation for anyone convicted of a felony for the first time in Connecticut. The court may request it for any crime or offense other than a capital felony or murder with special circumstances. Probation officers prepare the report, which includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition

Related Cases—U.S. Supreme Court

In *Graham v. Florida*, the U.S. Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment prohibits states from imposing sentences to life without parole for defendants younger than age 18 for non-homicide crimes. The Court stated that there must be "some meaningful opportunity" for release based on a defendant's demonstrated maturity and rehabilitation. The Court stated that the Eighth Amendment does not prohibit a juvenile who commits a non-homicide crime from being kept in prison for life but it does prohibit making the judgment "at the outset that those offenders never will be fit to re-enter society" (130 S.Ct. 2011 (2010)).

In *Miller v. Alabama*, the U.S. Supreme Court held that the 8th Amendment prohibits courts from automatically imposing life without parole sentences on offenders who committed homicides while they were juveniles (younger than age 18). The Court did not categorically bar life without parole sentences for juveniles but stated that court must "take into account how children are different, and how those

differences counsel against irrevocably sentencing them to a lifetime in prison” (132 S.Ct. 2455 (2012)).

Related Bill

sHB 6581, reported favorably by the Judiciary Committee, establishes alternative parole eligibility rules for someone who (1) committed a crime when he or she was younger than age 18 and (2) was sentenced to more than 10 years in prison.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 17 (04/16/2013)